IN THE HIGH COURT OF BOMBAY AT GOA
****

WRIT PETITION NO.29/2002

1. Shri Vilas Kushali Naik,
   s/o Kushali T. Naik, major,
   bachelor, occupation
   service, r/o House No.103,
   Folnem-Mirabag, Taluka
   Sanguem, Curchorem, and

2. Smt. Ratne Vilas Naik,
   wife of Vilas K. Naik,
   r/o House No.103,
   Folnem-Mirabag, Taluka
   Sanguem, Curchorem. ... Petitioners.

Versus

1. Gonji Ragunath Naik, s/o
   late Ragunath Naik, aged
   about 52 years, married,
   Agriculturist, r/o House
   No.99, Folnem-Mirabag,
   Taluka Sanguem,
   Post Curchorem, and

2. Raghunath Kushali Naik, s/o
   late Kushali T. Naik, major,
   bachelor, occupation
   service, r/o House No.103,
   Folnem-Mirabag, Taluka
   Sanguem, Post:Curchorem. ... Respondents

Mr. V. A. Lawande, advocate for the petitioners.

Mr. V.P. Thali, advocate for respondent no.1.

Mr. R. B. D'Sa, advocate for respondent no.2.

CORAM: V. C. DAGA, J.

DATE: 6th June, 2002.

ORAL JUDGMENT

Rule returnable forthwith. By consent of the parties, petition is taken up for final hearing.

2. The respondent no.2 filed a suit for permanent injunction and for demarcation against the

petitioner no.1 and respondent no.3 (respondent no.2 after amendment), being Regular Civil Suit No.14/96. The suit came to be placed before the Lok Adalat for settlement. The suit came to be compromised behind the back of petitioner no.1 i.e. without his consent and authority.

3. Being aggrieved by this compromise and the Award dated 23rd June, 2001, in pursuance thereof the petitioner no.1 invoked writ jurisdiction of this Court so as to challenge the said compromise Award.

4. On being noticed, respondents appeared through their counsel. The respondent no.2 filed pursis on record in the form of Minutes of Order on 6th June, 2002, extending his consent to set aside the Award dated 23rd June, 2001, passed by the Lok Adalat. The said pursis in the form of Minutes of Order is taken on record and marked 'X' for identification.

5. Mr. V. P. Thali, learned counsel for respondent no.1 expressed his inability to accord his consent to set aside the impugned Award for want of specific instructions in this behalf from his client. However, he made his submissions and found it difficult to support the Award for want of consent of the petitioners.

6. Having heard the parties to the petition, we are of the confirmed view that in the absence of the

consent of the petitioners, no compromise Award could have been passed in Lok Adalat. The impugned Award cannot stand the scrutiny of law. It needs to be quashed and set aside.

7. Accordingly, for the reasons stated herein, we quash and set aside the Award dated 23rd June, 2001, passed by the Lok Adalat and restore the Civil Suit No.14/96 alongwith the counter-claim, to the file of Civil Judge, Junior Division, Sanguem and direct the trial Court to proceed with the suit for adjudication in accordance with law.

8. In the result, the petition is allowed in terms of this Order. Accordingly, Rule is made absolute with no order as to costs.

V. C. DAGA, J.